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Samuel M. Witten, Acting Assistant Secretary,
Bureau of Population, Refugees and Migration,
Department of State
1401 Wilson Boulevard, Suite 700
Arlington, Virginia, 22209

Dear Mr. Witten:

The American Immigration Lawyers Association (AILA) hereby submits the following comments in response to the request from the Department of State, Bureau of Population, Refugees, and Migration for views on the appropriate size and scope of the FY 2010 Refugee Admissions Program. 74 Fed. Reg. 30660 (June 26, 2009).

AILA is a voluntary bar association of more than 11,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws, including asylum seekers and refugees at different stages of the refugee resettlement process. AILA appreciates the opportunity to provide the Bureau of Population Refugees and Migration our insights on how the refugee admissions process can be improved.

Increase the Ceiling for Refugee Admissions in Fiscal Year 2010

The United States plays a significant role in providing haven to individuals fleeing violence and persecution in their home countries. The United States has consistently been a world leader in receiving and

resettling refugees. In fact, the United States resettles more refugees than all other nations combined.¹ Between the 1980s and the mid-1990s, the United States resettled over 100,000 refugees annually, by providing admission to refugees and also by funding their resettlement. AILA encourages the Bureau of Population, Refugees and Migration, Congress, and the President to continue in the United States' global responsibility by increasing the ceiling for refugee admissions in Fiscal Year 2010.

Unlike other groups who enter the United States, even those seeking humanitarian relief, refugees are unique in that they are, virtually without exception, destitute: they have fled their homelands, often without clothing or possessions, and have lived at subsistence levels in refugee camps, often times for years, without any means of support or income. When admitted to the United States as refugees, typically they have little more than the clothes on their backs, and are completely dependent on refugee resettlement organizations in the United States for initial assistance.

Due to widespread ethnic and religious conflict, the global refugee population continues to rise. The UNHCR estimates that there are now 14 million refugees worldwide.² Many of these refugees will never be resettled in a third country. Moreover, the UNHCR estimates that for the fiscal year 2010, 700,000 refugees are in immediate need of third-country resettlement. For these individuals, other durable solutions, such as return to their home countries are not options -- third country resettlement is their only solution. The United States has a responsibility to do its part in providing a haven for these individuals.

AILA would like to see the United States increase refugee admissions to 125,000 in fiscal year 2010. However, any increase in refugee admissions must be paired with additional funding for domestic resettlement activities. Thus, AILA encourages a comprehensive approach to increased refugee admissions and increased funding for the resettlement program.

Increase Funding for Domestic Resettlement Agencies Through the Office of Refugee Resettlement

Given the increased need for refugee resettlement, we emphasize that the domestic resettlement program needs additional funding. At current refugee admission levels and in light of the current economic condition, many refugee resettlement organizations in the United States simply cannot resettle any additional refugees.

Currently, refugee resettlement agencies receive approximately \$900 in federal funding for resettlement costs, such as housing, English classes, employment assistance, and other social services. It bears mentioning that this sum - less than a thousand dollars per refugee, and less than a million dollars for a hundred thousand refugees - cannot be said to be excessive. Yet, over the past decade this direct cash assistance to refugee resettlement agencies has barely increased, while the expenses that resettlement agencies

¹ U. S. Committee for Refugees and Immigrants, *2009 World Refugee Survey*.

² U.S. Committee for Refugees and Immigrants, *2008 World Refugee Survey*.

must incur to provide resettlement services to arriving refugees have increased exponentially. Moreover, the current economic climate makes it increasingly difficult for resettlement agencies to provide newly arrived refugees with basic services. The domestic refugee resettlement program is in dire need of increased funding.

In conjunction with increased refugee admissions under the refugee admissions program, AILA requests that the Department of State ask Congress to appropriate additional funding to the Office of Refugee Resettlement so local refugee resettlement organizations can provide the statutorily mandated and much needed resettlement services to refugees entering their communities. Indeed, admitting additional refugees to the United States without a corresponding increase in funding will serve neither the needs of the United States or the refugee populations we aim to assist.

Resume Processing of Priority Three Family Reunification

The processing of Priority Three family reunification applications was abruptly halted in 2008, after a pilot DNA testing project suggested there may be fraud in the Priority Three processing of affidavits of relationship for certain countries in Africa.³ AILA is greatly concerned with the suspension of Priority Three family reunification processing for all countries in response to what may be geographically isolated issues of fraud.

Family relationships born out of conflict may not fit into neat categories. A finding of fraud in the Priority Three processing program based on DNA tests exposing a lack of biological relationships between refugees on an Affidavit of Relationship fails to account for the displacement and fractured lives of refugees and their families.

When fleeing violence and persecution, refugee families are often fractured beyond recognition. Many times a child may be separated from her parents at a very young age and may be raised by extended family members or other members of the refugee community. Additionally, many times refugee camps and the particular circumstances of displacement do not have formal governmental procedures for adoptions. Rather, families take on parenting responsibilities out of necessity.

The alleged instances of fraud in the Priority Three processing program are based on primarily western ideas of family and do not adequately take into account various kinship systems that span multiple continents and may not account for family structures that are not solely determined by biological relationships.

Considering the diverse cultures of refugees and the violent realities of flight that separate refugee families, it is incumbent on the refugee family reunification process to consider that lack of a common DNA bond does not necessarily lead to a conclusion that fraud exists in the Priority Three family reunification process.

³ U.S. Department of State, Bureau of Population, Refugees, and Migration, *Fraud in the Refugee Family Reunification (Priority Three) Program Fact Sheet*, 2008, available at <http://www.state.gov/g/prm/rls/115891.htm>

Moreover, these allegations of fraud in one small aspect of the Priority Three program should not derail that entire program. Rather, the agency has a responsibility to adjust the Priority Three process to prevent fraud in a narrowly-tailored fashion while maintaining the integrity of the program. Until Priority Three processing is resumed, thousands of refugee families will continue to be separated. The intended goal of the program is to reunify refugee family members; AILA encourages the resumption of Priority Three processing to ensure that refugee families are united in a timely manner.

AILA recommends that Department of State resume Priority Three family reunification processing, without which, families will spend large amounts of time separated from each other.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION